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In re Application of
ARQUINT et al.
Serial No.: 10/523,933
PCT App. No.: PCT/DE03/02548
Int'l Filing Date: 29 July 2003
Priority Date: 08 August 2002
Attorney Docket No.: 32860-000850/US
For: RADICALLY CROSSLINKABLE
HYDROGEL COMPRISING LINKER GROUPS

DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 27 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 3 October 2005, applicants filed an executed declaration.

On 23 January 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed regarding the declaration and indicating that the signature of inventor Gotz was missing and that inventor Nuss was not listed in the international application.

On 11 May 2006, applicant filed a petition to revive along with an explanation of the signature of the inventor. On 5 September 2006, a decision dismissing the petition was mailed.

On 27 February 2007, a renewed petition was filed along with petition under 37 CFR 1.182 to accept name change of inventor Hannelore GOTZ to Hannelore NUSS.

DISCUSSION

Petition under 37 CFR 1.182

A petition under 37 CFR 1.182 is required to accept the change in the name of the inventor along with a \$400 petition fee. The petition fee will be charged to applicant's deposit account per his authorization.

As explained in MPEP 605.04(c), applicant must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted a certified copy of a marriage certificate of Hannelore Gotz regarding

her respective change of name to Hannelore NUSS. The petition under 37 CFR 1.182 is granted.

Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

Applicant previously satisfied Items (2) and (3). With regard to Item (1), the proper reply is a declaration or oath, in compliance with 37 CFR 1.497(a) and (b), executed by the inventors as listed on the international application. With the grant of applicant's petition under 37 CFR 1.182 above, Hannelore Nuss is recognized as an inventor.

However, the declaration submitted on 11 May 2006 and resubmitted on 27 February 2007 contained two identical sheets of page 3 signed by different inventors. The declaration is not properly executed. It appears that either the attorney pieced together two separate complete declarations or the inventors were presented with an incomplete declaration. Thus, the requirements of 37 CFR 1.497 have not been met. What is required is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

The requirements of 37 CFR 1.497(a) & (b) have not been met and the declaration is unacceptable. Item (1), a proper reply, has not been submitted and the petition to revive is dismissed at this time. The proper reply is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 27 February 2007 in the above-captioned application is **DISMISSED**.

The application remain abandoned. The proper reply is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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